

RD AN No. 3723 (4274-D)  
March 18, 2002

SUBJECT: Intermediary Relending Program  
Security-Uniform Commercial Code

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE:

The purpose of this Administrative Notice (AN) is to provide guidance and clarification regarding the requirements of RD Instruction 4274-D, section 4274.326, Security.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

IMPLEMENTATION:

RD Instruction 4274-D, section 4274.326, regarding security, requires the Rural Business-Cooperative Service (RBS) to take a security interest in all assets currently in or hereafter placed in the intermediary's Intermediary Relending Program (IRP) revolving fund. Until the recent enactment of the new Uniform Commercial Code provisions, it was uncertain how to secure such an interest. Now it is clear that an appropriate control agreement with the depository bank is sufficient to protect RBS's security interest in the IRP bank account.

Therefore, the Letter of Conditions for each IRP loan approved after the date of this AN will require the intermediary to give RBS a first lien interest in the intermediary's revolving fund account under the applicable Uniform Commercial Code provisions. Unless advised differently by the Office of the General Counsel (OGC), the following condition should be inserted in the Letter of Conditions:

EXPIRATION DATE:  
March 31, 2003

FILING INSTRUCTIONS:  
Preceding RD Instruction 4274-D

“The intermediary’s attorney will provide an opinion satisfactory, to RBS, that RBS has a first lien position on the borrower’s IRP depository bank account.”

In addition to normal security documents and unless advised otherwise by OGC, this will be done by a control agreement satisfactory to RBS. The control agreement should not require RBS’s signature for withdrawals. If possible, the depository bank should waive its offset rights against the depository account to RBS. No specific control agreement form is prescribed.

If any questions arise regarding the control agreement, you should consult with your Regional OGC.

*(Signed by John Rosso)*

JOHN ROSSO  
Administrator